The Judiciary

DECEMBER 2018 | Q3 ISSUE

Special Edition: Presentation of the Judiciary Annual Report

Organs of state, through legislative and other measures, must assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts. An order or decision issued by a court binds all persons to whom and organs of state to which it applies.

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From the Editor

Dear Colleagues,

We have reached the end of the year 2018 and it is our pleasure to present to you the final Issue of the Judiciary newsletter for the year!

If you have been following our quarterly publication you would have noted that it has been a year filled with much activity for the South African Judiciary. Not least of these was the Inaugural Judiciary Day held on November 23 through which the Judiciary accounted to the South African public by presenting its 2017/18 Annual Report. This Issue is dedicated to this momentous event!

All of us as members of the Judiciary are proud to have been serving at a time when this historic occasion took place. Not only has the Judiciary for the first in the history of our nation accounted to ordinary South Africans on its work and for the resources allocated to it, but it has also through this occasion reaffirmed its status as an independent arm of State by reporting directly to the public.

We thank the Honourable Chief Justice Mogoeng Mogoeng for his visionary leadership in ensuring that the Judiciary takes a giant leap forward in transparency and accountability. What the Chief Justice has achieved through his vision has changed the course for judicial accountability and this can only bode well for our democracy as a nation.

We wish to take this time to wish all our readers a peaceful, safe and happy holiday season. As we take time to enjoy the holidays with our loved ones, let us not forget those who are less fortunate than us. Wherever you can, dedicate some time to reaching out to those in need so that they may also feel the festive cheer.

Happy holidays! Until next year…

Judge President Dunstan Mlambo
Chairperson: Judicial Communications Committee

JUDICIARY
Annual Report
2017/18

On 23 November 2018, Chief Justice Mogoeng Mogoeng presented the Inaugural Judiciary Annual Report at the Constitutional Court. The event will henceforth take place annually.

Judicial accountability in SA has changed forever

The Constitution of the Republic of South Africa, 1996 provides that the Judiciary is independent and subject only to the Constitution and the law. The Chief Justice is the Head of the Judiciary and exercises responsibility over the establishment and monitoring of the Norms and Standards for the exercise of judicial functions of all Courts.

The Heads of Court, led by the Chief Justice, took the resolution to present an annual report on Judicial Functions and Court Performance for the South African Judiciary for the year ending 31 March 2018.

This was a historical event as it is the first time the Judiciary, as an Arm of State, took the lead on accounting for its work, and for the power and authority the State has endowed to it. Judiciary Day will henceforth be an annual event during which the Chief Justice will, on the behalf of the Judiciary, present the Judiciary Annual Performance Report; and deliver an address on the state of the Judiciary.

Foreword by The Chief Justice

From the Judiciary Annual report, November 2018

Our constitutional democracy is one that comprises three co-equal and functionally independent arms of the State. None is thus supposed to be overtly or subtly managed by the other. It is all about checks and balances as opposed to the virtual and overstretched dependency of one on the other, which could inadvertently result in the one being in effect dependent on the other. All arms of the State are creatures of the Constitution and how we carry out our constitutional mandates is more a function of our respective constitutional prescripts than institutional preference or sheer tradition.

A practice developed during the apartheid era in terms of which the Judiciary accounted to public representatives in Parliament, and by extension to the public, through the agency of the Minister of Justice. Even Parliamentarians knew that whenever they needed information about the Judiciary all they had to do was to channel questions to them through the Minister. And the Judiciary would in providing its response follow the same channel. This practice so entrenched itself that it found easy passage into the truly democratic constitutional dispensation that accounts for the Judiciary that is now in place.

The leadership of the higher courts analysed the situation from a constitutional perspective, identified the inappropriateness of accounting the traditional way and resolved to delink the accounting responsibilities of the administrative office – the Office of the Chief Justice (OCJ) – from those relating to court performance, which is a shared section 165(6) responsibility of the Judiciary. For reasons I need not go into, while we acknowledge that judicial independence is inextricably linked to judicial accountability, we are satisfied that we bear a direct responsibility to account to the nation ourselves, as is the case with jurisdictions like Kenya, Singapore and many other comparable and progressive constitutional democracies.

That is why we set up a Judicial Accountability Committee to work out the modalities for our accountability. And the materialisation of this "Judicial Accountability Session" is a direct product or consequence of the sterling job that Committee has done under fairly tight time frames. For that, we will be eternally indebted to them.

The purpose of the "Judicial Accountability Session" and the report is to explain to the nation how we have served them in the recent past, what challenges we confront and how we seek to address them, barring those that are incapable of being resolved only by the Judiciary without meaningful intervention by other arms of the State or the cooperation of sister institutions within the broader justice system, like funding and additional functions.

When we began to work together as this judicial leadership team, we identified some of the court performance-related challenges that demanded our urgent attention. To this end, we set up the "Judicial Caseflow Management Committee". Its strategic mission is to craft, refine and implement time-tested case flow management models to facilitate a speedy more efficient and effective delivery of service to the public. Implementation has taken place and the professional consumers of our services, particularly at the higher court levels, have for some time now been speaking glowingly about the beneficial effect of judicial case management as implemented.

Case flow management works hand in glove with the "Norms and Standards" that the Chief Justice, working with the collective leadership of the Judiciary, is required by section 165(6) of the Constitution and section 8 of the Superior Courts Act to develop and adopt.

In our Norms and Standards that have been operational for several years now, we prescribe for ourselves the same judicial case flow management system mentioned above. It restores the control and management of cases back to Judicial Officers and ensures that we progressively work our way out of the counter-productive practice of enrolling matters for

hearing just because a request for a set down was made, even when they are far from ready for trial. Matters are in many instances now and will in all respects going forward, be enrolled only if all the essential preparatory steps, including full investigations in criminal matters, have been taken to avoid delays.

Because court-annexed mediation has not been successfully introduced by the Ministry in the Magistrates' Court, the leadership of the Judiciary with the facilitation of the South African Judicial Education Institute (SAJEI) embarked on a training programme for Judicial Officers on a win-win court- annexed mediation system during the first two weeks of July. Pilot projects are in the pipelines in both the Pretoria and Johannesburg High Court and Magistrates' Court. A highly skilled mediator, a Judge of many years, has been identified to help with the implementation of this programme and to even train the trainers.

We are also working on formalising our working relationship with community-based justice centres which are run by well-trained para-legals. We even invited some of them to a National Efficiency Enhancement Committee (NEEC) meeting where they enlightened the broader leadership of the Judiciary more about what they are about, what they have achieved in collaboration with the
Judiciary, what challenges they face and how they could be overcome. These centres are essential access to justice facilitating instruments that need our financial and logistical support.

Reality also sunk in that we will never be as effective as the public is justifiably entitled to expect us to be as long as there was no mechanism in place for interaction with key role players in the justice system. That realisation led to the establishment of the NEEC which is chaired by the Chief Justice. It comprises all the Heads of Court, the NPA, SAPS, Correctional Services, Public Works, Justice and Constitutional Development, Health, Legal Aid South Africa, Social Development, Road Accident Fund, the organised legal profession, the OCJ and others. We have through this vehicle been able to raise with each other the challenges we pose to or hurdles we place on the path of others in their attempts to serve the nation and together propose remedial action. And this has been most helpful. The NEEC has its provincial equivalents chaired by the Judges President.

We have also been able to get SAJEI to be fully operational. It has trained and continues to educate all Judicial Officers and Traditional Leaders for the proper execution of their judicial functions. To facilitate further transformation of the Judiciary, we offer training to aspirant Judicial Officers, and to all other Judicial Officers – the newly appointed ones and even others who have been on the Bench for years – on an ongoing basis. We have even begun to publish a highly informative and professional journal that deals with matters of great interest and significance to the broader legal family.

We set up a Committee that has helped us develop the appropriate court-automation system. It will help us implement electronic-filing and electronic record-keeping, performance-related and hearing- related data capturing, information dissemination or access to information relating to cases and all other matters that affect court operations.

Allied to this are strenuous transformative and cost-cutting efforts to secure our own judgments electronically and make them freely accessible to ourselves together with statutes, and such other material we consider to be essential tools of trade without which judicial functions cannot be effectively carried out. Funding for these exceptionally effective cost-saving measures is a serious challenge. But, our National Library Advisory Committee and the Law Reporting Project Committee have done very well in this connection. We, however, like all other users, continue to pay a high premium to access the product of our labour – our judgments produced by us at great expense to the State. We all need to get our priorities right as a State.

Committees have been set up to identify and cause to be addressed challenges relating to court infrastructure, security, remuneration, and court order integrity. The latter has the extremely urgent task of arresting the emerging trend of generating fraudulent court orders. Mechanisms

have been developed to stem the rising tide of these criminal activities which seem to be too stubborn to challenge even to the police to whom these matters have been reported. Courts continue to be woefully unsecured. For example, the apex court is only secured by security personnel armed with batons. Unfortunately, as with many issues of great importance, the Judiciary is not only the only Arm of the State but to my knowledge also the only institution that cannot acquire its own library materials, effect changes it considers appropriate, cause effective security measures to be implemented, extremely under-resourced to the point of inadvertently rendering the capacities necessary for the speedy, effective and efficient delivery of justice to all our people. We also continue to explore effective measures through which to communicate what we do and share information as generously as the foundational values of our democracy – transparency and accountability – require of us to do.

Where the Judicial Code of Conduct has been flouted, we have taken steps to refer conduct that is reasonably suspected to constitute misconduct to the Judicial Service Commission. There has indeed been inordinate delays in finalising matters that appear to be sufficiently serious to warrant impeachment. Protracted and several court challenges impeded the speedy finalisation of those matters. Otherwise, almost all matters that did not require the establishment of the Judicial Conduct Tribunal to assess the possibility of impeachment were finalised within a reasonable period. And they constitute the overwhelming majority of the complaints we receive. Otherwise, our system for monitoring reserved judgments and part-heard cases has proved to be efficient wherever it is properly implemented.

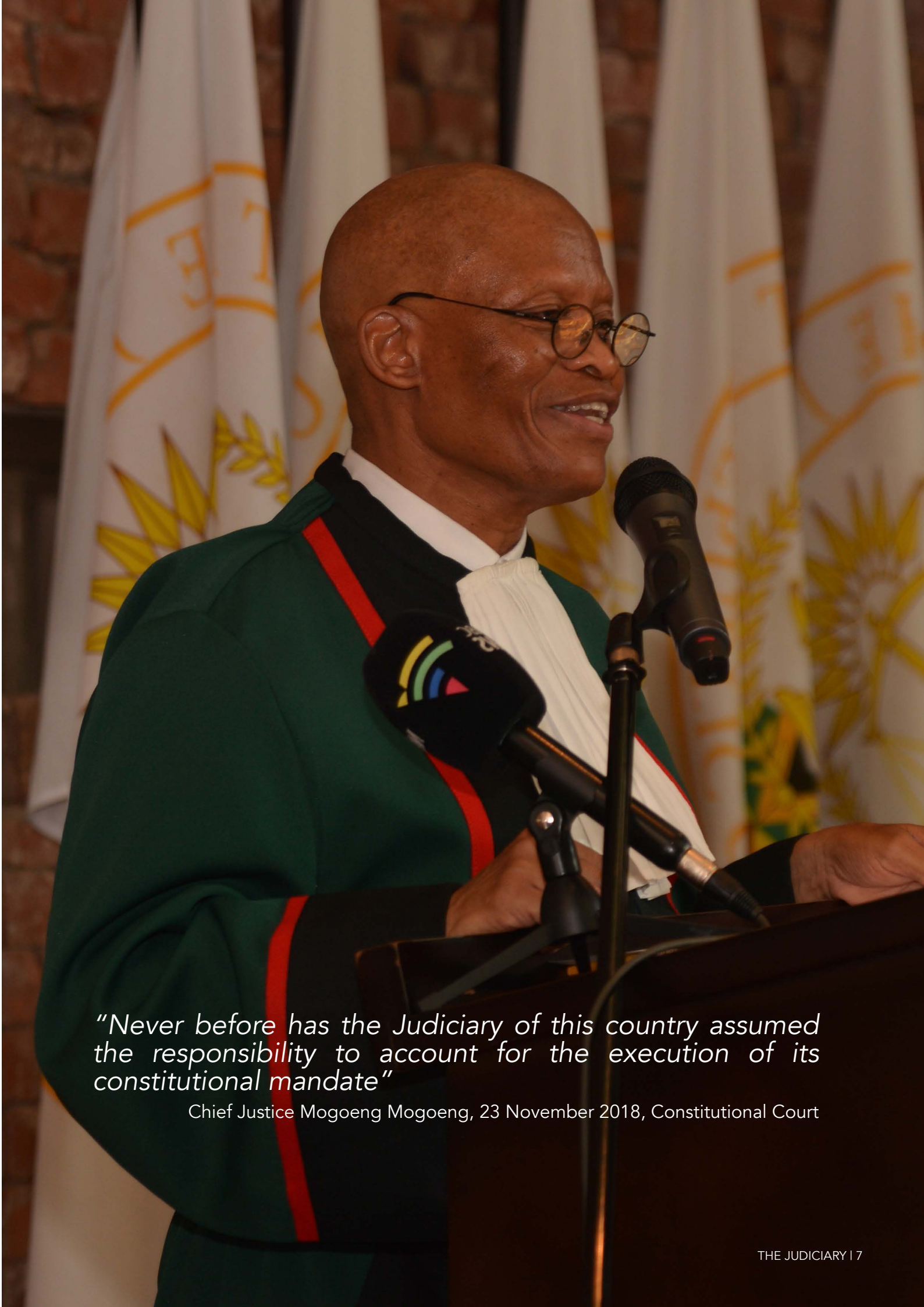
We will continue to innovatively explore other measures for the enhancement of efficiency and effectiveness. The full implementation of judicial case management, the introduction of a win-win free court-annexed mediation and court modernisation would go a long way to improve court performance.
I am indebted to the collective leadership of the Judiciary, the Committee and all our structures as well as the OCJ for the professional cooperation and selflessness displayed.

We remain deeply concerned that over 615 prosecutorial posts remain unfilled in the NPA owing to budgetary constraints and that the budget of the courts is woefully inadequate compared to what is required to have a Judiciary that is comprehensively efficient and effective in its operations.

A realignment of the higher and lower Judiciary, their structural and functional unification and the implementation of an administrative model that is truly consistent with institutional independence have become imperative.

Our performance report reveals that we have done well but much more still needs to be done. There are systems in place and several others identified to improve court performance, judicial and institutional or administrative independence so that South Africans have meaningful access to courts and that quality justice is speedily, effectively and efficiently delivered to all.

Published in the Judiciary Annual Report, November 2018.



"Never before has the Judiciary of this country assumed the responsibility to account for the execution of its constitutional mandate"

Chief Justice Mogoeng Mogoeng, 23 November 2018, Constitutional Court

"The Judicial Accountability Session"

Speech delivered by Mogoeng Mogoeng
Chief Justice of the Republic of South Africa
Constitutional Court of South Africa
23 November 2018

Today, Friday 23 November 2018 marks a turning point in the history of the South African Judiciary and by extension in the history of the State as a whole. A turning point indeed because never before has the Judiciary of this country assumed the responsibility to account for the execution of its constitutional mandate without a "middle man" in the true sense of the word. And here lies the significance of this development in its proper context.

Our constitutional democracy comprises three co-equal and functionally independent arms of the State - the Executive, the Legislature and the Judiciary. Co-equal indeed because none of these arms is an impostor underserving of equal and constitutionally-assigned status as a real arm of the State.

The somewhat conservative, reserved, less dramatic, public space-shy nature, posture or disposition of the Judicial office-bearers has had the inevitable consequence of rendering the Judiciary less visible, which inadvertently relegated them to the level far below that of the political arms of the State. The acute underfunding, comparatively less public regard in which they are held, and the fact and their apparent resignation to the assumption of the parental role by the Ministry of Justice, inadvertently yet inevitably undermined or weakened the role and status of the Judiciary as a real arm of the State even more. This situation was exacerbated by some of the additional factors to be touched on in the course of this address.

At long last, like the Executive whose performance is accounted for primarily by the President, and Parliament whose activities are reported on mainly by the Speaker of the National Assembly, and the Chairperson of the National Council of Provinces, we hold this first "Judicial Accountability Session" so that the Chief Justice may account for the performance and other activities of the broader Judiciary of South Africa, to the people of South Africa. We do so not only in recognition of our unique role as an independent arm of the State, but also because of our conviction that with independence comes accountability. We are not self-employed. Like functionaries in the other arms of the State, we are employed by the people and as their messengers we owe them an account of what we have exercised the mandate they charged us with and the resources they availed to us.

This being the first of its kind in this country, whatever teething problems we may encounter would be addressed in due course so that the next Session next year, would be handled even better than this one. We will take a few questions before we adjourn and then break for a much longer engagement with the media, there is an appetite for it. There we will be available until the media runs out of questions to ask us.
Section 165(6) and the Superior Courts Act requires of the Chief Justice and the leadership of the Judiciary to craft Norms and Standards. This we did and the Norms and Standards have been operational since 28 February 2013. They set a high standard towards which we will all have to work progressively, until it is attained. A misunderstanding of the purpose of the Norms and Standards has led some to think that if a Judicial Officer fails to deliver a judgment within three months of the trial or hearing being finalised, then disciplinary steps must be taken against the defaulting Judge or Magistrate. These time-frames are meant to alert each Judge or Magistrate affected and the Head of Court to the need to begin to work more earnestly to have the judgment delivered sooner rather than later and to be specific about the date for the hand down of the judgment. It is designed to constitute a red bright light that would help us avert the difficult situation of being left with no choice but to have a Judge or Magistrate hauled before a disciplinary structure.

Whether a Judicial Officer must be subjected to a disciplinary process is a decision that is governed by the provisions of the Judicial Code of Conduct, article 8 in particular. That decision cannot be based on the provisions of the Norms and Standards.

In broad terms the higher courts have performed as set out below:

The Judiciary Annual Report is a reflection of "where we are now" as the Judiciary and "how are we doing" in our endeavoured to fulfil our constitutional obligation to improve access to justice and to deliver quality justice speedily to all people. The report is thus aimed at enhancing transparency, accountability in the expeditious delivery of justice and the public confidence in the Judiciary. The confidence of the public in an independent Judiciary is of paramount importance for a vibrant and functional democracy. Lack of public confidence in the Judiciary has the potential of eroding the moral authority of the judiciary. We neither control the army, the police nor the public purse. Our orders are obeyed because of our public confidence generating moral authority. If we lose it then we are finished. Accountability is therefore important because it is a foundational value of our democracy which is applicable to all, including the Judiciary.

The promulgation of the Norms and Standards for all Judicial Officers is one of the milestones that seeks to promote court excellence and enhance judicial accountability. It is worth repeating that they seek to achieve the enhancement of access to quality justice for all; to affirm the dignity of all court users and ensure the effective, efficient and expeditious adjudication and resolution of disputes through the courts. These noble aspirations or objectives can only be attained through the commitment and co-operation of all Judicial Officers in keeping with their oath or solemn affirmation to uphold and protect the Constitution and the human rights in it and to deliver justice to all persons alike without fear, favour or prejudice in accordance with the Constitution and the law. These Norms and Standards are underpinned by the core values of judicial independence and accountability; accessibility; transparency; responsiveness; collegiality and diligence amongst others.

We saw the need to identify challenges that undermine the efficiency and effectiveness of the court system. As a result a governance structure was established to ensure that the process for identifying those areas that impact negatively on the delivery of Justice is driven by the Judiciary. This includes a performance monitoring, information and communication technology at the courts, Library services, case flow management, court infrastructure and security.

For example to allow for the proper management of Judicial functions, the Judiciary itself has assumed the responsibility for the monitoring of court performance. Indicators were developed and ambitious targets set. This report is the result of that process. The information obtained from the court performance statistics allows the Leadership of the Judiciary to interrogate issues relating to broader judicial functions more efficiently access.

It is important to note that the Leadership of the Magistracy has also started this process in order to identify indicators and targets for court performance information for the Magistrates' Courts. That information will in future also be reported on and form part of the composite Annual Report so that the single Judiciary of this country accounts for all its performance.

From the court performance statistics contained in the report it is clear that the bulk of the work performed at Superior Courts is done by the High Court. And of the 152 944 civil cases received at the High Court, 106 936 were finalised and of the 15 293 criminal matters, 10 411 were finalised. This despite limited resources and a judicial establishment which has remained unchanged despite an increase in workload and responsibilities.

The Supreme Court of Appeal has performed admirably and 223 appeals of the 235 were finalised during the reporting period. This is above the 1104 applications for leave to appeal, out of 1487 applications, which were finalised.

Our specialist courts have also ensured that matters are expediently finalised. The Labour and Labour Appeal Courts have finalised 287 of the 427 Labour matters brought before them. The Land Claims Court, although situated in Randburg, is a court which has dedicated itself to bringing justice to the people. It regularly holds court sessions where needed, around the country, more especially in the remote rural areas where sensitive historical issues relating to land are predominant. The Court has finalised 227 of the 330 matters brought before it during the reporting period.

The challenges experienced by the Judiciary have been exacerbated by an ever-increasing workload. The 17th Constitutional Amendment increased the jurisdiction of the Constitutional Court. As you are probably aware over and above entertaining constitutional matters, the Constitutional Court also has jurisdiction over other matters of general public importance that deserves its attention. And the Court is now the highest court in the Republic, and is a court of final appeal, on all matters. This amendment has resulted in a marked increase in the workload of the Court. More importantly, it is the only court where all its available Judges are required to sit together and this contributes to the delays it is now experiencing

in finalising cases. Every case demands the attention of all available Judges. Some Judges were even beginning to wonder whether the time has perhaps not come for Judges to sit in panels like the SCA and the Federal Constitutional Court of Germany. But, as presently advised, we believe that is a bit too early to venture in that direction.

The total caseload for this court as at the time of this report was recorded as 437 of which 295 cases were finalised. As this translates to 68%.

The number of reserved judgments in the Superior Courts is monitored to measure compliance with the set Norms and Standards and the Judicial Code of Conduct. The report on reserved judgments is also a tool for Judges President and all Heads of Court to manage the judicial functions at that specific court.

The Heads of Court, as part of accountability and in an effort to be transparent, have taken a decision that a reserved judgment report, containing a list of those judgments outstanding for 6 months or longer, will be placed on the OCJ website. Any requests for further information, such as information on the list of reserved judgments for individual Judges, or judgments outstanding for less than 6 months, must be referred to the Head of Court concerned.

In order to ensure that the courts remain efficient, the Judiciary will be introducing win-win court annexed mediation. In July of this year Judicial Officers from all courts were trained on the practical implementation and benefits of court-annexed mediation as part of a broader judicial case flow management strategy. This training was led by Judge John Clifford Wallace, a Senior Judge and Chief Judge Emeritus of the Ninth Circuit United States of America Court of Appeal. Judge Wallace is internationally renowned as one of the leading authorities on case flow management and court-annexed mediation. A pilot project will be started in due course in the jurisdictions that Mlambo JP presides over before proper mediation is rolled out to the entire court system, where it does not already exist.

Access to justice to all South Africans remains one of our top priorities, hence the establishment of the National Efficiency Enhancement Committee (NEEC) and its Provincial equivalents. This structure exists in order to promote interdepartmental cooperation and stakeholder relations aimed at enhancing efficiency in the justice system, the improved performance of all Courts and access to quality justice for all.

One of the main challenges of courts is that they handle a lot of hard copies throughout the court processes, including dockets, case files and judgments. The Judiciary would like to implement an electronic filing (E-Filing) system to manage, secure and ensure sharing of records in order to improve efficiency and the quality of service to the public. Digitisation or automatisation is critical in managing and securing all records linked to a case.

The envisaged benefits include:

- Improved accessibility of documents by litigants and other stakeholders
- Reduction of paper storage and records management challenges for the courts
- Improved response time based on to documents provided to the courts by 3rd parties
- Improved case handling processes within courts
- Improved adherence to standards across all courts with regard to indexing and document accessibility
- Better security of documents

I am delighted to announce plans to pilot an eFiling system at the Superior Courts within the next six months.

It is worth noting that despite the serious budgetary constraints within which the Judiciary has to function and the country's economic challenges, the Judiciary has made great strides in the pursuit of the efficient and effective delivery of justice for the benefit of the public in South Africa.

One of the mechanisms for fostering accountability and promoting transformation is through continuous education and training of Judges and Magistrates and aspirant Judicial Officers. The South African Judicial Education Institute (SAJEI), is seized with the task of continuously implementing training programmes and courses for Judicial Officers. During the period under review, SAJEI trained 1882 Judicial Officers through 90 judicial education courses. It also appointed five permanent judicial educators as facilitators to provide dedicated judicial training. That is additional to Judges and Magistrates who volunteered their services as facilitators.

The Judicial Service Commission, is tasked with this mammoth task of ensuring that our Judiciary reflect broadly the racial and gender composition of South Africa when making recommendations of judicial appointments. The JSC continues to make strides to accelerate transformation of the Judiciary by recommending for appointment fit and proper

Judicial Officers as required by our Constitution. Despite these progressive strides, more still needs to be done for transformed Judiciary that is properly reflective of our racial and gender diversity. As at the end of the period under review, 184 Judges were black and 90 were women out of the total of 250 Judges on the Superior Courts establishment.

We aim to meet the high standard we have set ourselves at some point in the future. To address some of the challenges that frustrate our noble endeavours to make excellent performance a Norm, we have embarked on the following additional measures:

1. Judicial Officers do not always have to write scholarly and reportable judgments. The norm ought to be the delivery of short yet complete judgments immediately after the trial or hearing, unless the complexity or length of the matter does not allow this to happen.

2. Only trial or hearing-ready matters must be set down. To achieve this, judicial case management and pre-trial conferences that involve and are driven by a Judicial Officer must be fully embraced and the first phase of this system has been implemented.

3. Returning to the National Efficiency Enhancement Committee and its Provincial equivalents, they were set up to really enhance the efficiency and effectiveness of the broader justice system. All the key role-players in the justice system come together and the Chief Justice chairs the meeting whereas the Judges President do likewise in relation to provincial structures. There, challenges to efficiency are identified and solutions proposed for each.

4. Another mechanism employed to reduce the costs of litigation and to accelerate the pace of litigation was a resolution by the Heads of Court to have only English as the language of record. What this means is that every litigant is free to testify or even investigate in a language of preference but, the record of proceedings is itself required to be in English. Recent experience has borne out the wisdom behind this resolution.

5. The ability to access tools of trade in the form of reports and other library materials has been seriously hampered by the fact that this function is yet to be transferred from the Department of Justice and Constitutional Development to the Office of the Chief Justice. This requires urgent attention.

6. Court judgments are produced by Judges as functionaries of the State. The State or the Judiciary should own copyright over these judgments. Yet, they are availed to publishers for free, who with the editorial services provided by Judges and Advocates then package them and sell them back to the State for consumption by the Judiciary. The Judiciary buys back its judgment at no discount whatsoever. As the Judiciary we have for years been asking for funding from those who control the library services budget to have us compile our own judgments so that we may access them at no cost whatsoever. It is very difficult to secure the requisite funding to implement this cost-saving measure which countries like Ghana, Qatar and Singapore have implemented to the benefit of their Judiciaries.

7. Gauteng is one of the Divisions that have a much lower number of Judges in comparison to the workload. This contributes to the delays in enrolling and finalising matters notwithstanding the JP and Colleagues, best endeavours to speed up the finalisation of cases.

8. At NEEC level we have appealed for SAPS to consider arrest and detention only when it is essential to do so. This would reduce the workload of the Magistrates and free them from the remand court to do trials and applications, thus speeding up case finalisation.

9. The 665 unfilled vacant posts for prosecutors will weaken court performance even more. Difficult as it is, we plead for more funding for the NPA so that these posts can be filled and the criminal justice system strengthened.

10. We also plead for the strengthening of the investigative capacities of our detectives. But offer a word of appreciation and encouragement for the enhanced police visibility where it is already happening and express the wish to see it more widespread.

11. More funding is required for repairs or renovation of the buildings courts occupy. Courts are virtually unsecured. People with batons are the ones offering protection to courts. Sadly, Judiciary is unable to do anything about it but raise it as a concern.

12. The Road Accident Fund must have its capacities

more enhanced so that matters that are capable of speedy resolution do not have to wait for the last hour to settle. This would also save huge costs.

13. More vigilance is required in relation to the amounts at which RAF and medical negligence claims are allowed to be settled.

14. It bears emphasis that the Judiciary is acutely underfunded in comparison to the other arms of the State. We cannot even afford an annual Judicial Colloquium which other Jurisdictions around the world hold without fail.

15. A stress-management programme is needed urgently for all Judicial Officers. They go through so much as a result of some of the traumatising cases, like rape, murder, difficult divorce matters that they have to handle. It cannot be left to an individual to fend for herself or himself. It is a work-related challenge that requires institutional response as was most impressively done by Australia and Singapore.

16. At some point the and however long it may take, institutional independence of the courts would have to be appropriately resolved.

Leadership-related issues

It is necessary to sketch the scenario relating to the role of leaders of the arms of the State. Our President and Members of the Executive have never sought to discharge their duties only or predominantly within the confines of their offices or seat of the arms of the State they head. Similarly, leaders of Parliament have never seen it as a requirement for the proper execution of their mandate to spend most their time in their offices or stations.

As a result, apart from having a deputy, at any given time there are at least three Cabinet Ministers already sworn-in and ready to assume Presidential responsibilities if the President and his Deputy are for one reason or another unable to fulfil that role. And additional to their domestic responsibilities, they also have an obligation to help resolve continental and global challenges. Examples are the Lesotho, Sudan, DRC and Somalia. They rightly even deploy soldiers and financial resources there because we belong to the family of nations. Parliament has not been left out. Additional to the Deputies, there are at least three House Chairs to do that which would have been done by either the Speaker, or Chair or the Deputy of a particular House had they been present.

The Judiciary is no exception. There is an incredible demand or hunger for the intervention of the leaders of the Judiciary locally, continentally and globally. Judge President Mlambo has made us proud many times over as the Judiciary and as the nation. Most of the time he is not in court and for very good reason. Now the United Nations has a Protocol on Legal Aid because of the critical leadership role that Mlambo JP has played to facilitate State-sponsored legal representation for the indigent in countries that did not have such a system in place. He has played and continues to play a crucial role in championing the cause of immigrants or refugees and to promote access to justice through the medium of community based justice centres, globally. I encourage him to keep on absenting himself as and when the global community needs his essential intervention. I will never discourage him.

My own leadership role is multi-dimensional. Any notion that the Chief Justice of South Africa is somehow Constitutional Court-bound can only be a consequence of a woeful lack of understanding in relation to the responsibilities that come with that Office. To start off with the responsibilities are not confined to the operations of the Constitutional Court. As demanded even by section 165(6) of the Constitution and the Superior Courts Act, the Chief Justice must ensure that all Courts in South Africa serve the nation well. Additional administrative responsibilities extend to overseeing our administrative department, the OCJ, which incidentally has received a clean audit because of how it stands guided by the leadership of the Judiciary, the SAJEI, the NEEC, the JSC and being Chancellor of UKZN.

Additionally, I have since 2013 or 2014 been elected to the Office of Vice President of the Conference of Constitutional Jurisdictions of Africa(CCJA). On 26 April 2017 I assumed the Presidency of the CCJA. Since not all apex courts in Africa had joined this continental body, I had to encourage the remaining jurisdictions to take up membership of the CCJA. And happily, at least 13 new members have since been enlisted through these efforts. I have to interact with member Jurisdictions and attend some of their programmes and represent Africa whenever other continental bodies and the world body of Judges meet.

We also had to intervene when the Kenyan Judiciary was under unprecedented attack after making a particular ruling. As a result when they subsequently pleaded that I come to address the whole body of Judges, in my capacity as President of the CCJA, remembering what they had just been through and that they all had to be interviewed anew not so long ago as a result of allegations of widespread corruption, I considered myself duty-bound to go and encourage Colleagues to discharge their constitutional duties in line with their oaths of office. And they appreciated the interventions so so much.

And of course, the Chief Justiceship, the Presidency of the CCJA and the Chairmanship of the WCCJ, from 26 April 2017 until end of February 2018 demand that I represent South Africa, Africa and the world body during the term of my Chairmanship of the WCCJ by attending almost all the meetings of the Executive Bureau of the continental and world body and other members that brought Colleagues together, to discuss matters of importance to the Judiciary.

HOW THE COURTS HAVE PERFORMED

Percentage of cases finalised In the reporting period 1 April 2017 to 31 March 2018

68%	98%	67%	100%	64%	66%
Constitutional Court	**Supreme Court of Appeal**	**Competition Appeal Court**	**Electoral Court**	**Labour Court and Labour Appeal Court**	**Land Claims Court**

72% of criminal cases finalised by the High Court

72% of civil cases finalised by the High Court

68% of cases in the High Courts which are on the roll for more than 12 months (Criminal Case backlog)

68% of reserved judgments finalised in all Superior Courts

HOW THE COURTS HAVE PERFORMED

Reserved judgments

1154
reserved judgments were carried over from 31 March 2017

5355
judgments were reserved during including the 1154 carried over

4148
Judgments delivered

31 March 2017 — 01 April 2017 — 31 March 2018

74% of the reserved judgments were delivered within three months as per the norms and standards.

3053 of 4148
reserved judgments delivered with 3 months

Over the reporting period of 1 April 2017 to 31 March 2018 a total of 1154 reserved judgments were carried over from 31 March 2017. A total of 5355 (including the 1154 carry-over from 31 March 2017) judgments were reserved during the period 1 April 2017 to the 31 March 2018. A total of 4148 judgments were delivered during the period 1 April 2017 to the 31 March 2018. 74% (3053 of 4148) of the reserved judgments were delivered within three months as per the norms and standards.

PROCESS FLOW FOR THE PUBLICATION OF THE RESERVED JUDGMENTS REPORT

On 4 September 2018 a media enquiry from GroundUp, which is a publication based in Cape Town, Western Cape was received by the OCJ Communications Unit. GroundUp advised that they are investigating the timelines of reserved judgments in all Superior Courts. Subsequent to this request from Ground Up, a reserve judgments report with inaccurate information was erroneously released.

In order to prevent the reoccurrence of the error the Heads of Court resolved as follows:

1. The reserved judgment report will contain only a list of those judgments outstanding for 6 months or longer.

2. All requests for further information, such as information on the list of reserved judgments for individual judges, or judgments outstanding for less than 6 months, must be referred to the Head of Court concerned.

3. The reserved judgment report will be placed on the OCJ website.

4. Judge President Mlambo, supported by Mr Nathi Mncube, to develop a protocol relating to the release and periodical updating of information of reserved judgments.

To give effect to resolution number 4, the Honourable Judge President Mlambo has proposed the following:

Process Flow

- Reserve judgments report to be published on the 14th working day of each new term.

- The Statisticians and Chief Registrars will support the Judges President in the collation and consolidation of the reserved judgments data. (Within 5 days of the new term).

- The data will be used to prepare the report for submission to OCJ Court Administration Unit. (Submission to OCJ on 6th day of the new term).

- OCJ Court Administration Unit to consolildate and prepare a national overview report. (Within 3 days after receiving report from the courts).

- National overview to be circulated to all Judges President for verification and confirmation. (To be in circulation for 3 days).

- Verified report to be submitted to the Chief Justice. (2 days before publication on OCJ website).

- Verified report to be placed on OCJ website. (on the 14th day)

The first publication of the reserved judgment report on the OCJ website will take place 14 February 2019.

Enhancing working relations between the Executive and the Judiciary

The Separation of Powers

On 27 August 2015, the Chief Justice and Heads of Court as representatives of the Judiciary met with the President and members of the National Executive. This historic meeting, a first of its kind in our democracy, had been convened at the request of the Chief Justice for the purpose of discussing matters of mutual concern directed at enhancing the working relations between these two Arms of the State and to strengthen our constitutional democracy.

Improving efficiencies through Court Rules

Court rules to facilitate Judicial Case Flow Management have been drafted. The draft rules establish a system to facilitate the just and timely disposition of proceedings, with the minimum necessary commitment of resources by the court and litigants, by monitoring the progress of individual proceedings against predetermined timelines, and intervening when a proceeding is not progressing satisfactorily.

The Judiciary's contribution to national cost containment

At the meeting of the Heads of Court held on 3 April 2016 the recommendations of the Remunerations Committee to implement cost containment measures was adopted. The resolution pertained to the capping of benefits to the Judges including travel allowances, chamber allowances for acting Judges and vehicle allowances for Judges. The measures cap the rates applicable for the rental of vehicles for Judges and inclusive accommodation rates

Presentation of the Judiciary Annual Report 2017/18 by Chief Justice Mogoeng Mogoeng

Leadership of the Judiciary

Chief Justice M Mogoeng
Head of Judiciary & Constitutional Court

Deputy Chief Justice R Zondo
Deputy Chief Justice of the Republic of South Africa

President M Maya
President of the Supreme Court of Appeals

Acting Deputy President J Shongwe
Acting Deputy President of the Supreme Court of Appeals

Judge Presidents of the Superior Courts

Chairperson J Shongwe
Electoral Court

Judge President J Hlophe
Western Cape Division of High Court

Judge President M Leeuw
North West Division of High Court

Judge President D Mlambo
Gauteng Division of High court

Judge President D Davis
Competition Appeals Court

Judge President B Waglay
The Labour Court

Judge President A Jappie
KwaZulu Natal Division of High Court

Judge President E Makgoba
Limpopo Division of High court

Judge President P Tlaletsi
Northern Cape Division of High Court

Judge President S Mbenenge
Eastern Cape Division of High Court

Judge President MF Legodi
Mpumalanga Division of High Court

Acting Judge President S Meer
Land Claims Court

Acting Judge President C Musi
Free State Division of High court

Chief Justice Mogoeng Mogoeng

Deputy Chief Justice Ray Zondo

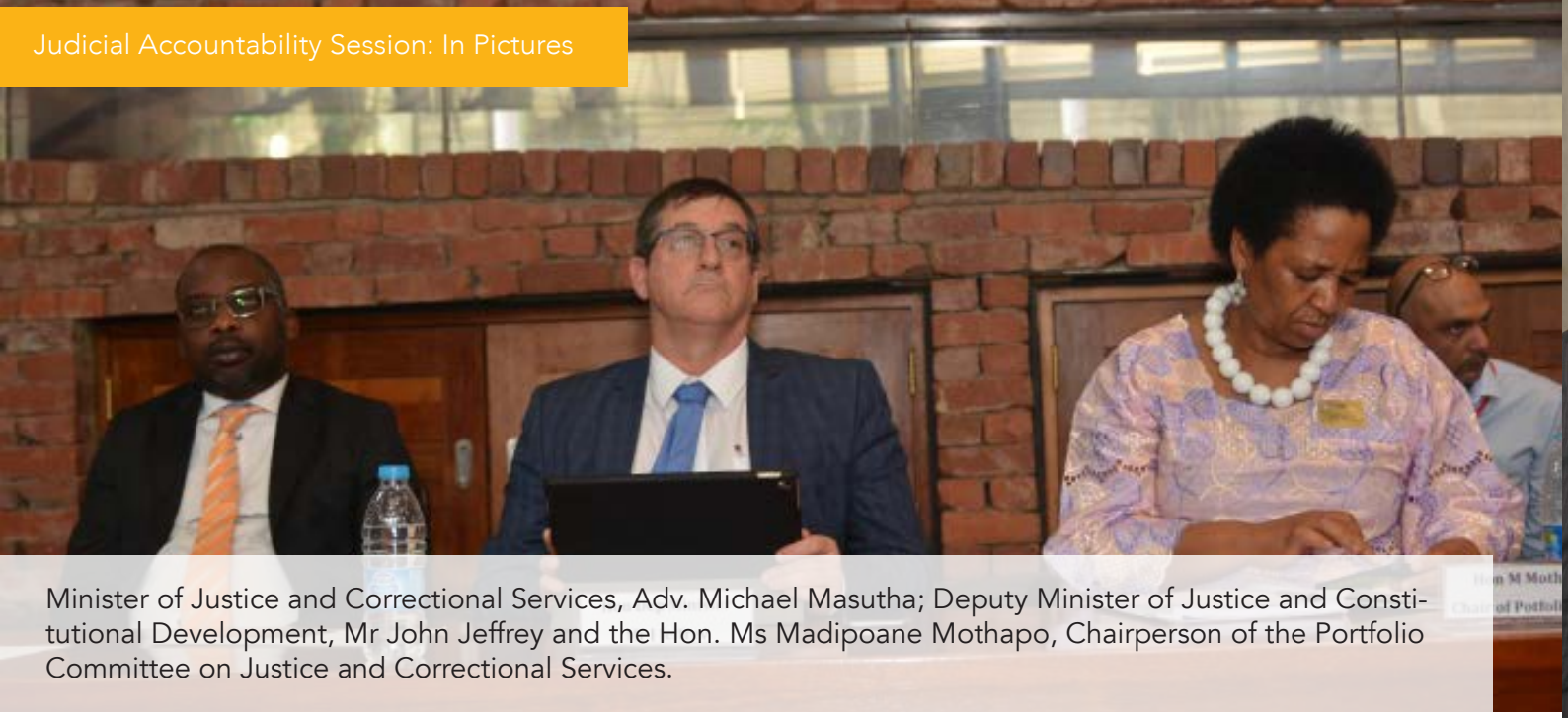
Judge President Monica Leeuw

Judge President Dunstan Mlambo

Deputy Judges President and Senior Judges from various Divisions

Chief Justice Mogoeng Mogoeng together with the Heads of Court, Constitutional Court Judges, Deputy Judges President, Senior Judges and the Magistracy were in attendance at the Presentation of the Judiciary Annual Report on 23 November 2018, at the Constitutional Court, Johannesburg.

A Judicial procession set the scene for the day with Judges entering the Constitutional Court chamber fully robed.



Minister of Justice and Correctional Services, Adv. Michael Masutha; Deputy Minister of Justice and Constitutional Development, Mr John Jeffrey and the Hon. Ms Madipoane Mothapo, Chairperson of the Portfolio Committee on Justice and Correctional Services.

Question and Answer Session

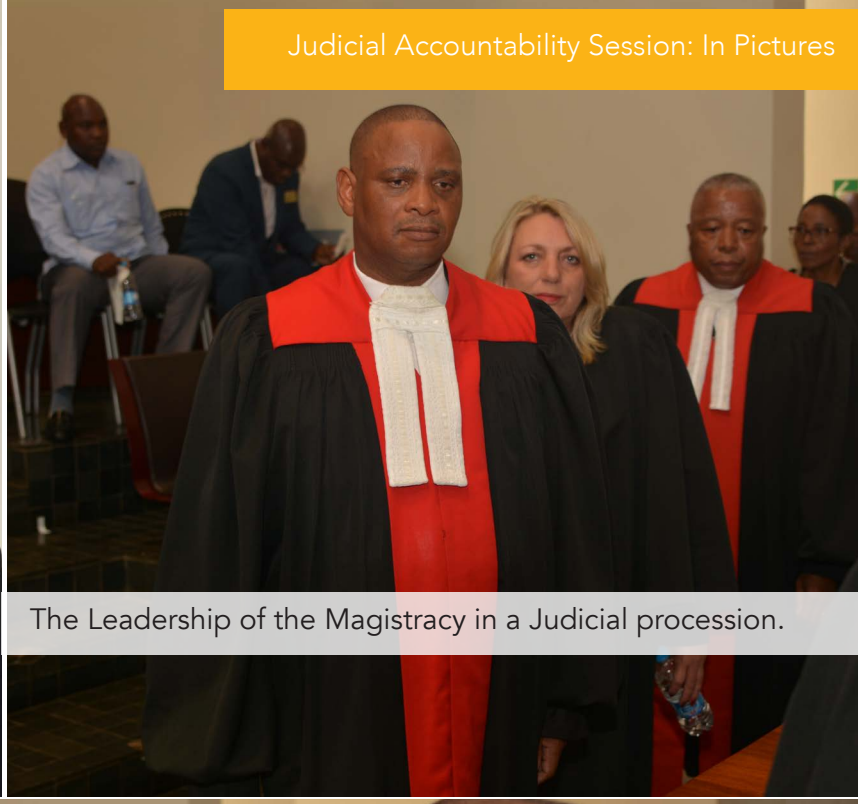
During the Judicial Accountability Session, the chief Justice called upon members of the audience to ask questions in relation to any issues related to the Judiciary.

The session was robust, and ranged from topics relating to judicial performance, to appointments.

The Chief Justice interacted and responded to all questions asked.

Stakeholders took part in the Question and Answer Session.

Judge President Tlaletsu and Judge Phatshoane



The Leadership of the Magistracy in a Judicial procession.

The Leadership of the Magistracy in a Judicial procession.

Deputy Judges President and Senior Judges from various Divisions

The Office of the Chief Justice Exco members listening to the Chief Justice's address.

Chief Justice Mogoeng Mogoeng along with the Heads of Court held a media briefing following the Presentation of the Judiciary Annual Report. where the Chief Justice engaged with the media on various matters related to the Judiciary.

Stakeholders mingled after the Judicial Accountability at the Constitutional Court Session

Stakeholders mingled after the Judicial Accountability at the Constitutional Court Session

The University of Zululand Choir

Judge Stevan Madjiedt, Judge Siraj Desai and Judge President Achmat Jappie

Justice Leona Theron and a former Clerk

Office of the Chief Justice officials

Office of the Chief Justice senior officials

Office of the Chief Justice officials

Deputy Chief Justice Zondo with the Uniziulu Choir

The world marked the 16 Days of Activism Against Gender Based Violence recently. We publish a powerful speech delivered by the President of the Supreme Court of Appeal recently on Gender Based Violence

Picture source: Destiny Magazine

Judicial and Legal Responses to Gender Based Violence and Femicide

Presented by
Justice Mandisa Maya
President: Supreme Court of Appeal
Gender Violence and Femicide Summit, Pretoria, 1 November 2018

Programme Director, Mme Minister Shabangu
His Excellency, the Honourable President of the Republic of South Africa, Ntate Ramaphosa
Honourable Speaker of the South African Legislature, Mama Mbete
Honourable Ministers Masutha, Pandor, and other Cabinet Ministers present,
Premier Lucas
Dignitaries from the diplomatic corps
Traditional leaders
Gender activists who tirelessly keep the woman's cause on the nation's agenda
Esteemed guests,
Ladies and gentlemen

Good morning

Introductory Remarks

I do not really know what to say after listening to the powerful and heartrending stories of unspeakable crimes perpetrated against innocent women, whose spirits however remain unbroken against all odds. But such is the resilience of Woman. I am truly ashamed that I am part of the society and the justice system that visited horrendous pain upon you. I am tremendously proud of your courage and bravery.

These gruesome stories remind me of Karabo Mokoena from Johannesburg, whose charred remains were found in a shallow hole, buried like vermin; Reeva Steenkamp; former Banyana Banyana footballer, Eudy Simelane from KwaThema, who was gang raped and grossly stabbed to death merely because she was lesbian; the brutal rape and killing of 17 year old Anene Booysen from Bredarsdorp. How have we been able to carry on as a functioning society after the horrific rape of 9 month old baby Tshepang from Upington by a group of adult men in 2002? Just yesterday, the KwaZulu-Natal High Court imposed three life terms of imprisonment against a father who raped his young daughters. Many examples of these atrocious incidents abound and they continue unabated. And more frightening is the fact that many more of these acts occur behind closed doors and remain unreported and undocumented for a whole variety of reasons.

The stories also evoke memories of my own childhood and youth. The memories are very warm and sentimental and they stretch as far back as age five when I started school and began growing my network of friends and in turn gained surrogate parents who would watch over me and more homes at which I could play. I remember walking long distances to school, alone, with other young children; playing at school, at my home, at friends' homes, in the street, running errands in my neighbourhood, going to the shops, far and near, in broad daylight and after dark. It was a long time ago so the memories are mostly hazy. But what stands out vividly in my mind is the sense of lightness, of safety, being carefree – the sense of innocence and freedom. And the loss of this quality in our society – providing safety and protection for its most vulnerable members, is in my view, the biggest tragedy of our times. When we no longer can let our children out of sight even for a second lest they are abducted, raped, maimed and killed by some sick perverted man; often a family friend, a close relative and even a father. And almost every second of the hour a woman is sexually assaulted and or killed by a man, often a husband, a lover, but seldom a stranger. And in a significant number of those incidents there is no justice for the victim.

It is a truly shameful indictment against our beautiful country, her people, us, that we should have to meet like this to deliberate on how to stop ourselves from cannibalizing our own children and women. But it is our reality and we must deal with it. And it is most encouraging that our president has recognized the need to convene this gathering. Acknowledging that there is a problem in one's homestead is the beginning of the solution and, hopefully, healing.

What is this scourge?

The challenge demands a substantive definition that addresses the multifaceted and complex nature of this pervasive trend in our society. The most appropriate and substantive definition of gender based violence is found in the feminist research, study and discourse developed over decades which describes it as: 'violence that is directed at an individual based on his or her gender. It includes physical, sexual, and psychological abuse; threats; coercion; arbitrary deprivation of liberty; and economic deprivation, whether occurring in public or private life. Gender Based Violence takes on many forms and can occur throughout the lifecycle'.
Its many forms include female infanticide, harmful traditional practices such as early and forced marriage, 'honor' killings, female genital cutting, child sexual abuse and slavery, trafficking in persons, sexual coercion and abuse, neglect, domestic violence, and abuse of the elderly.

As we know, women and girls are the most at risk and are the most affected by gender based violence. As a result, the terms 'violence against women' and 'gender-based violence' are often used interchangeably. However, boys and men can and do also experience gender based violence, as can sexual and gender minorities such as men who have sex with men and transgender persons. Regardless of the target, gender based violence is rooted in structural inequalities between men and women and is characterized by the use and abuse of physical, emotional, or financial power and control.

Gender based violence is a not a phenomenon peculiar only to South Africa. But whilst it is a serious challenge in other countries as well it has just struck us with particular ferocity and threatens to engulf our country. It seems fair to assume that our violent racially discriminatory and oppressive history may be a contributory factor in exacerbating the scourge in our society.

Mechanisms in place

A vital dimension of our constitutional project has been addressing the sequelae of apartheid – marginalization, subjugation and violence – meted out to black people and women in our society. It is a proud achievement that our government has dedicated an entire Cabinet ministry to safeguard and advance the cause and position of women in our society. (Whether we have used the resource maximally is a question that we must ask ourselves when we begin deliberations later.) Our Legislature has also enacted a number of statutes aimed at addressing women-oriented challenges.

The Courts have played their part too in protecting women's rights.They have consistently highlighted that women are a vulnerable group whose wellbeing and safety is precarious in our patriarchal society arising from factors related to their historical oppression and exclusion from economic activity. The jurisprudence of our Courts has thus been developed to offer a gender-sensitive and socio-political approach to cases and interpretation of legal and other relevant instruments.

It has been pointed out that the legal mechanisms in place are seemingly inefficient in light of the rampant gender based violence in our country. But I will discuss them anyway so that as we deliberate we know precisely what we already have in our arsenal and if indeed it is inadequate or the problem lies elsewhere. In the interest of time I will just highlight some of the key legal mechanisms that have been created to address gender based violence in the country and what the Courts have done in the fight against the scourge.

Legal Framework

One of the insidious qualities of gender based violence and femicide is its far reaching, adverse impact on all aspects of a victim or survivor's life and its devastating impact on a number of their constitutional rights. The key, foundational of these rights are found in sections 10, which guarantees human dignity, 11, which guarantees life and 12, which guarantees freedom and security of persons, of the Constitution of the Republic of South Africa, 1996. These rights illustrate our nation's commitment to the creation of a society that is free from violence of any nature and puts a high premium on a person's bodily integrity. Gender based violence and femicide directly violate these foundational principles of our Constitution.

In addition to these constitutional provisions, South Africa has a vast array of legal instruments that are meant to address the challenge. The National Crime Prevention Strategy (NCPS) of 1996 established crimes of violence against women and children as a national priority. Thus we have the mandatory minimum sentences for certain rapes in terms of the Criminal Law Amendment Act 105 of 1997. The

Criminal Procedure Second Amendment Act 85 of 1997 allows for bail conditions to be tightened in cases of those charged with rape. The Domestic Violence Act 116 of 1998 seeks to afford women protection from domestic violence by creating various obligations on law enforcement bodies such as the police to protect victims as far as possible and makes provision for example, for interim protection orders and restraining orders.

The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 was promulgated in response to the extremely high levels of gender based violence and femicide and brought about radical changes in respect of a multitude of criminal offences. Some of the changes were the broadening of the definition of rape and other sexual offences (such as proxy rape, object rape etc.) and the introduction of new offences to deal with contemporary issues of violence including those that bear on Gender Based Violence such as the digital distribution of pornography etc. To further curb the prevalence of rape and sexual offences, the Criminal Law (Sexual Offences and Related Matters) Amendment Act 6 of 2012 was passed to provide for the effective prosecution and conviction of offenders. There is also the Maintenance Act 99 of 1998 which provides for garnishee orders, attachment of emoluments and orders by default. Sadly, there is still a lack of awareness and these means of protection are not fully utilised as many do not know of their existence.

The mainstay of the fight against gender based violence are the Sexual Offences courts (and Thuthuzela Care Centres) which were introduced to focus on the expeditious adjudication of cases involving crimes and transgressions of a sexual nature in specialized courts that are properly equipped to deal with this unique crime.

Implementing the Legislative mechanisms

The responsibility of ensuring that those responsible for committing gender based crimes are brought to account rests on the criminal justice system. The various relevant role-players such as the police and the prosecution, health-care providers, social services, etc, all need to combine their efforts in order to guarantee justice for victims of these crimes. Where for example the police do not carry out their constitutional duty and fail to investigate crimes properly, the whole process collapses. The offender is then released back to society with the possibility of re-offending. If the victims do not know what remedies are available to them then it is all meaningless.

The Courts, guided by various principles our legal system, which is adversarial in nature, play a crucial role in ensuring just outcomes in these cases and alleviating the problem. They bear the difficult task, when the guilt of an offender has finally been proved, of finding the right balance between a just sentence on one hand, and a clear message that will deter gender based violence in society on the other. On that note, it needs be said that it is quite evident from the resurgent nature of these crimes that would-be offenders are generally not deterred. And this just goes to show that gender based violence is not a problem that can solely be addressed through the courts. It demands a structured attack by various sectors of our society, starting in our homes where we raise our children, especially our sons and the moulding of their world view and the place of women in it begins.

The Courts have tried to play their part. They have, in various judgments, delineated the obligations imposed by the Constitution and the law on the relevant role-players to ensure that justice is served. For example, in the Carmichele v Minister of Safety and Security decisions, the High Court and the Constitutional Court held that the common law of delict required development in order to reflect the constitutional duty on the State and, in particular, the police and the prosecution, to protect the public in general, and women in particular, against the invasion of their fundamental and guaranteed rights by the culprits of violent crime. The Constitutional Court in S v Baloyi highlighted that the Constitution imposes a direct obligation on the State to protect the rights of all persons to be free from domestic violence.

The Courts have also delivered numerous, important cases which emphasize the rights of victims of gender-based violence and continue to send out strong messages by imposing tough sentences and through direct remarks that gender violence is not acceptable and that the State will be held accountable for upholding the rights of women. Landmark cases include Omar v the State which upheld the provision for protective orders in the Domestic Violence Act. Van Eeden v the Minister of Safety and Security found the Minister responsible for damages in a rape case involving three off-duty police officers and Carmichele v the Minister of Safety and Security & another, held the Ministers liable, in a case of rape, for negligence in that the State did not take measures to protect the victim as the prosecutor failed to inform the presiding officer that the accused had previously physically assaulted the victim so that

he was not afforded bail.

Recently, the Constitutional Court upheld a confirmation case of the High Court, in Levenstein & others v Frankel which ruled that the Criminal Procedure Act should be amended to abolish the prescription period of 20 years for sexual offences and other forms of gender-based violence. The Court held that the effect of the impugned s 18 is two-fold: (i) it over-emphasises the significance of the nature of the offence, at the expense of the harm it causes to survivors thereof, and therefore fails to serve as a tool to protect and advance their interests; and (ii) it penalises even a complainant whose delay was caused by or due to his or her inability to act by preventing him or her from pursuing a charge even if he or she may have a reasonable explanation for the delay. The Court further held that the impugned section undermines the State's efforts to comply with its international obligations, which impose a duty on the state to prohibit all gender-based discrimination. The Court confirmed the High Court's order that s 18 is irrational and arbitrary, and therefore unconstitutional, insofar as it does not afford the survivors of sexual assault other than rape or compelled rape the right to pursue a charge, after the lapse of 20 years from the time the offence was committed. Importantly, the declaration of invalidity is retrospective to 27 April 1994. And, subsequent to that hearing, Minister Masutha delivered his 2018/2019 budget speech for the Departments of Justice and Correctional Services and stated that the Criminal Procedure Act would need to be reviewed for, amongst other things, this very purpose.

All considered, it is fair to argue that South Africa's legal framework and jurisprudence are pioneering.

But that said, the Courts must be constantly reminded that as the final arbiters in matters involving gender based violence, they have the power to protect abused women and to effectively punish the offenders, and in so doing send a clear message to perpetrators that such conduct will not be condoned. That they have the inherent ability to ensure that court room policies and procedures are sensitive to the victims, and that the victims who go through the legal system are not subjected to secondary trauma in the form of harsh, humiliating and unnecessary cross-examination when they present themselves to testify.

This is crucial because as a Colleague, Justice Cameron, once observed, 'Judges do not enter public office as ideological virgins. They ascend the Bench with built-in and often strongly held sets of values, pre-conceptions, opinions and prejudices. These are invariably expressed in the decisions they give, constituting "inarticulate premises" in the process of judicial reasoning'. Judges are the creations of their societies and naturally carry all sorts of prejudices and stereotypes of which they may not even be aware.

So while there has been a marked ideological shift in the ways Judges adjudicate matters relating to gender based violence and femicide in recent times, including the abolition of cautionary rule in respect of sexual offences, and the conduct of many judicial officers can be commended, the fate of these victims should not be left to the off-chance that the individual Judges hearing their cases will be attuned to the sensitivities. There should be a formalization and standardization of these norms so that it is incumbent on the Courts to pay particular attention to the treatment of victims in these cases.

Needless to say, legal representatives, especially those who represent the offenders, must also contribute to the improvement of judicial responses in matters of gender based violence to ensure that justice is achieved and other victims are not discouraged from reporting their complaints and participating in court proceedings by the possibility of a hostile court environment. Judicial officers, prosecutors, defence lawyers and the relevant court personnel such as court interpreters, would all benefit from awareness or social context training in this regard so that they fully understand the relevant dynamics and have the ability to handle matters of a sensitive nature.

There is always a large scope for improvement and I do not doubt that there are many other things the Courts can do better in the execution of their judicial function to effectively adjudicate these crimes. I look forward to hearing from you as we go forward with the deliberations on how the Courts and the legal system can be so improved.

In closing: many laudable strides have been taken in the legal sphere to address the scourge of gender based violence and femicide and the social consequences associated with it in our society. But those strides have simply not been up to the challenge. As I mentioned before, the Courts alone cannot alleviate let alone eliminate the scourge. It demands the concerted effort of all South Africans, and more particularly, clear and achievable plans particularly from the executive sphere of our government, some

as were identified by the earlier speakers and the demands of the gender activists at whose instance this summit is taking place.

The questions which we must ask ourselves are extremely difficult to answer. Why is this happening; what is the cause? Why are the extensive measures that have been put in place so far not effective? What must we do to fight the scourge effectively?

But I am very hopeful that with the collective will and the many minds gathered in this room and most importantly, the President's willingness to be used as a weapon to fight the scourge, we will make headway in these two days and I trust that we will have successful deliberations.

- Ends -

The murder rate for women increased drastically by 117% between 2015 and 2016/17

Stats SA

In Memoriam

A dedication to the memory of our honourable departed colleagues.

We dearly remember our departed colleagues and we pause to honour them for serving the people of the great nation with distinction.

- Judge C Plewman, Supreme Court of Appeal
- Judge PC Combrinck, Supreme Court of Appeal
- Judge LO Bosielo, Supreme Court of Appeal, died while still in active service
- Judge President CF Eloff, Gauteng Division
- Judge President MDJ Steenkamp, Northern Cape Division
- Deputy Judge President PJ van der Walt, Gauteng Division
- Judge AA Louw, Gauteng Division
- Judge AP van Coller, Free State Division
- Judge DJ Lombard, Free State Division
- Judge FC Kirk-Cohen, Gauteng Division
- Judge GSS Maluleke, Gauteng Division
- Judge JG Foxcroft, Western Cape Division
- Judge KJ Moloi, Free State Division, died while still in active service
- Judge PH Tebbutt, Western Cape Division
- Judge SK Ndlovu, KwaZulu Natal Division and Judge of the Labour Appeal Court, died while still in active service

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